

**MINUTES OF THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

UNITED STATES OF AMERICA

v. WILKINS FURMENT

Case No. A05-0097 CR (JWS)

THE HONORABLE JOHN D. ROBERTS, United States Magistrate Judge
mldavis, Judicial Assistant - Magistrate Judge's Chambers

MINUTE ORDER FROM CHAMBERS

RE: (Defendant's Request for Evidentiary Hearing at Doc. 86)

Defendant Wilkins Furment seeks an evidentiary hearing in connection with his motion to vacate pursuant to 28 U.S.C. §2255. See, Furment's amended petition at doc. 79. The government filed an opposition to the motion to vacate sentence and opposes the evidentiary hearing. Doc. 82. Furment submitted a reply repeating his request for an evidentiary hearing. Doc. 86.

Furment asserts three grounds for post-conviction relief, as follows: (1) counsel failed to advise him of the terms and conditions of the plea agreement; (2) counsel failed to file an appeal, though requested to do so; (3) and, an appeal waiver was not explained to him before he waived his right to take an appeal. Before a defendant is entitled to an evidentiary hearing, he must make a prima facie showing of the grounds asserted. He may do this through the filing of an affidavit, including his own. Unless Furment can show there are material facts in dispute warranting an evidentiary hearing, the matter may be argued only on the present record. Therefore, Wilkins Furment shall have until January 22, 2008, to make a showing to warrant holding an evidentiary hearing. Thereafter, the request for an evidentiary hearing shall be determined.

Entered at the direction of the Honorable John D. Roberts, United States Magistrate Judge
January 8, 2008

Any request for other information or for clarification, modification, or reconsideration of this Order, or for extension of time must be made as a motion. See FED.R.CIV.P. 7(b)(1); D.Ak.LR. 7.1(1). No one should telephone, fax or write to chambers regarding pending cases. The magistrate judge's judicial assistant and/or law clerk are not permitted to discuss any aspect of this case, provide any information or communicate with any person including litigants, lawyers, witnesses and the public regarding cases.

T:\2007\A05-0097CR(JWS).Furment.orderonevidhrgrequest@86.DR#1.wpd